

From: Matthew Davidson
To: Microsoft ATR
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Subject: Microsoft Settlement

The Proposed Final Judgement (PFJ) as currently worded is insufficient, and contains too many loopholes to adequately prevent Microsoft from abusing its monopoly position. It contains misleading and narrow definitions, does not address anticompetitive license schemes currently used by Microsoft, and fails to fully prevent Microsoft from punishing OEM's.

The PFJ supposedly makes Microsoft publish its secret APIs, but it defines "API" so narrowly that many important APIs are not covered, and may not even include the next Windows version. Or how about this for a Catch-22? The PFJ requires Microsoft to release API documentation to ISVs so they can create compatible middleware -- but only after the deadline for the ISVs to demonstrate that their middleware is compatible. It also requires Microsoft to release API documentation -- but prohibits competitors from using this documentation to help make their operating systems compatible with Windows. Microsoft currently uses restrictive licensing terms to keep Open Source apps from running on Windows, and to prevent Windows apps from running on other Operating Systems. Furthermore, the PFJ allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system. It also allows Microsoft to discriminate against small OEMs -- including regional 'white box' OEMs which are historically the most willing to install competing operating systems-- who ship competing software.

Considering these problems, the Proposed Final Judgement as it currently stands is clearly not in the general interest. It should not be adopted without addressing these issues.

Sincerely,
Matthew Davidson